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Letter dated 28 January 2010 from the Permanent Representative of Eritrea to the United Nations addressed to the President of the Security Council

I have the honour to forward a letter from Isaias Afwerki, President of the State of Eritrea, addressed to you, concerning Security Council resolution 1907 (2009) (see annex).

I should be grateful if the present letter and its annex could be circulated as a document of the Security Council.

(*Signed*) Araya **Desta**
Ambassador
Permanent Representative

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Annex to the letter dated 28 January 2010 from the Permanent Representative of Eritrea to the United Nations addressed to the President of the Security Council

For the past eight years, the United Nations Security Council has turned a blind eye to Ethiopia's lawless defiance of the 2000 Algiers Agreement and the Eritrea-Ethiopia Boundary Commission's "final and binding" Award of 13 April 2002 under the heavy-handed pressure and prodding of the United States. Furthermore, it must be recalled that the United States bears primary responsibility for fomenting and escalating the conflict in the first place to create the conditions for "managing the crisis" later.

The misguided and reckless policies of the United States that have imperilled peace and stability in the Horn of Africa region are not confined to the Eritrea-Ethiopia border conflict only. The complications that have ensued on account of the unwarranted interference of the United States for almost 20 years in the Sudan, Somalia and other countries in the region are glaringly obvious, as to merit detailed explanation. The United States has misconstrued the fight against terrorism as "its private affair" in order to use it as a suitable pretext for its unwarranted interference to confound and aggravate the latent problems besetting the region. As it happens, it has marginalized the peoples and Governments of the region instead of galvanizing them for concerted action to curb the threat that affects them first and foremost.

Furthermore, it must be emphasized that the unprovoked hostility of the United States towards Eritrea predates and transcends any recent developments or differences on Somalia. Among the litany of unilateral measures that previous and current United States Administrations have taken against Eritrea, the following can be cited to illustrate the depth and scope of the hostility directed towards Eritrea:

(a) In April 2004, United States officials in the Department of Homeland Security raided the Eritrean cultural centre in Washington, manhandled Eritrea's diplomatic agent and confiscated close to $1 million in cash from the safe box as well as Embassy documents in contravention of the basic tenets of the Vienna Convention on Diplomatic Relations. Eritrea's repeated efforts to seek redress and secure the return of the confiscated money remain fruitless to date;

(b) Although Eritrea is a multireligious society and a secular State wherein Christianity and Islam have coexisted in mutual harmony for over 1,300 years, the Bush Administration mendaciously labelled Eritrea in 2005 as "a country of concern for practicing religious persecution". This offensive ritual continues without redress to date;

(c) Successive United States Administrations have employed their financial clout in the World Bank and other multilateral associations to deny development assistance to Eritrea. They also continue to wage an intensive campaign to discourage the flow of foreign direct investment to Eritrea;

(d) In June 2009, President Obama signed Executive Order 1349 putting Eritrea in the list of "human trafficking" nations and imposing a series of financial sanctions against it. Again, this measure was not corroborated by facts. On the contrary, successive United States Administrations have encouraged unlawful emigration from Eritrea under one or other pretexts. In February 2009, for instance, the Bureau of Refugees in the United States State Department announced that it had

allocated "asylum rights" for 10,000 Eritrean youth who might desert the national service.

This is the bleak political backdrop of the unjustifiable resolution that the Security Council adopted on 23 December 2009, again under intense pressure of the United States, to impose a series of sanctions against Eritrea. The United States-sponsored sanctions, clearly, are not motivated by any desire for peace and stability in the region but as punishment for Eritrea because it has not sheepishly bowed to the disastrous policies of the United States in the Horn of Africa region. That Security Council resolution 1907 (2009) is not based on fact and law is otherwise underscored by the following:

I. The Somalia pretext and invalidity of the "sanctions"

The accusations against Eritrea for involvement in Somalia have never been substantiated or verified. (Many member States objected to the draft resolution in the early days precisely for this reason though they acquiesced to United States pressure later). The flimsy insinuations cannot indeed stand serious scrutiny as illustrated by the following:

1.1 The United States Administration has been harassing Eritrea throughout the past months — and this was often accompanied with veiled threats — to recognize the current "Transitional Federal Government" in Somalia. It must be stressed that recognition or non-recognition of Governments and States is the sole prerogative and sovereign jurisdiction of all countries. The latter has furthermore no justification on political grounds. Most Arab countries do not recognize the State of Israel. Kosovo has not been recognized by a number of European countries and by most other countries in the rest of the world. The similar status of Abkhazia, South Ossetia and Taiwan could also be invoked. The fundamental legal issue at hand is whether this matter of purely sovereign national jurisdiction can be misconstrued as a subject of Security Council concern. Is it really the mandate of the Security Council to punish any Member State on account of the political views it holds or the diplomatic choices it makes? Has the Security Council ever imposed sanctions against one or more countries because they have not recognized Israel, Kosovo, Abkhazia, South Ossetia and Taiwan? Does controversy on matters of this nature empower the Security Council to take punitive measures against a defenceless country arbitrarily? It must also be recalled that Eritrea had not recognized previous externally established Transitional Federal Governments — including the Abdulqasim Salad and Abdullahi Yusuf entities — installed in Mogadishu without the consent of the Somali people for cogent and well-thought-out reasons. It is patently clear that no "benign" foreign power can choose a Government for the Somali people. The arbitrary exclusion and ostracism of some groups under this or that pretext or label and the handpicking of "candidate" factions and individuals will not produce the panacea for Somalia's formidable problems. In Eritrea's view, a durable solution lies in a painstaking and inclusive political process of national reconciliation that addresses the problems in Mogadishu as well as in the other restive regions of Somalia. As it is well known, the current leaders of the Transitional Federal Government were labelled Islamists and forced out from Mogadishu in 2006. They subsequently sought refuge in Asmara to conduct their opposition work from there. Why was the issue of sanctions not raised then? Why now?

1.2 In as far as the allegation of the "supply of arms" is concerned, this groundless accusation has to be ascertained, if it has any grain of truth, by an independent party in an open forum. The accusation must be validated by incontrovertible evidence. It should not be determined in a closed meeting where the United States — obsessed with punishing Eritrea — acts both as the plaintiff and the judge. It must also be borne in mind that the United States is the party that has been providing arms to Somalia's warlords.

1.3 By the same token, allegations of other types of support have to be proved with credible evidence and in an open forum. Certain countries, and especially officials from Uganda, Kenya, Djibouti and Ethiopia, who are part and parcel of the problem and have colluded with the United States to corroborate its false accusations, cannot be treated as neutral witnesses. It must further be recalled that the Security Council, in resolution 1725 (2006), was keenly aware of the pitfalls and had endorsed the regional misgivings of including any troops from "neighbouring countries" (Ethiopia, Kenya and Djibouti) in any peacekeeping force that would ultimately be deployed in Somalia within the framework of a viable peace formula. These precepts were abandoned in 2006 when the United States Administration instigated Ethiopia's invasion of Somalia and secured its subsequent replacement by "AMISOM" from Uganda and Burundi. These acts were not in consonance with the political and legal consensus that prevailed at the time.

For all these reasons, the indictment of Eritrea for its role in Somalia has no legal or factual validity.

2. **A fabricated "border conflict" between Djibouti and Eritrea as another pretext**

As Eritrea has underlined on many occasions before, there is no good faith "border dispute" between Djibouti and Eritrea. The putative "border dispute" was contrived by the United States Administration for reasons that have to do with its strategy in the region. Indeed, this is intertwined with, and designed to advance, the purposes of the United States strategy of using Djibouti as a springboard for its military objectives in the region under the rubric of the "war on terrorism". Naturally, it is the legitimate right of any State to enter into defensive military pacts with other State(s). French presence in Djibouti in accordance with such agreements is a case in point. United States presence and its acquisition of a military base in Djibouti, however, fall outside this realm. It is against this backdrop that the Bush Administration decided to contrive the border problem between the two sisterly countries. This can be easily inferred from the manner in which the problem came to the surface:

- Eritrea became aware of this "dispute" through a third party when the President of Djibouti made a telephone call to the Amir of Qatar asking him to use his "good offices to resolve the dispute". Why did Djibouti resort to this indirect approach?
- The Amir of Qatar subsequently called me to talk about this matter. We were puzzled by this sudden accusation.
- I promptly called President Guelleh to enquire about the matter and to express my belief that "if there was indeed a border problem, the matter could have been resolved bilaterally without resorting to third parties".

- In spite of these conversations, President Guelleh went to the Djibouti-Eritrea border on the next day, escorted by a contingent of the country's armed forces. This act in itself was puzzling, raising deeper questions of motive.

- After a few weeks, Djibouti army units freshly deployed in the border launched a surprise attack on Eritrean units.

- In an apparently orchestrated and well-planned diplomatic campaign, the United States State Department promptly issued a statement condemning Eritrea. In the same vein, the Security Council was made to issue a statement condemning Eritrea without ascertaining the facts independently and objectively. The Security Council later decided to send a fact-finding mission to Eritrea. Eritrea could not accept, both as a matter of principle and in terms of judicious procedure, an ex poste facto visit by the mission when the Security Council had put the cart before the horse and already condemned Eritrea unjustly.

This sequence of events illustrates that this is not a good-faith dispute but a fabrication of the United States for other ulterior purposes. As such, the road ahead must consist of: (i) resolution of the problem, if it indeed exists, bilaterally without unwarranted internationalization and interference of third parties; and (ii) ensuring that the United States cease from fomenting trouble to advance its own agenda and abandon its pretentious "moral high ground" to indict and punish Eritrea. For all the reasons cited above, the resolutions that the Security Council has adopted on this matter are not defensible. Unless rectified, they will only undermine the moral authority and credibility of the Security Council. In the circumstance, Eritrea kindly requests the repeal of this resolution.

3. Inappropriate amalgamation of issues

The crisis in Somalia has no legal and/or political linkages with the fictitious border problem between Djibouti and Eritrea. The body of laws that govern border claims and misunderstanding between States as well as the established practice of handling them in the Security Council are well known to merit repetition here. But in a transparent scheme to build a "robust" case against and demonize Eritrea, the United States-sponsored resolution breaks precedent by amalgamating unrelated matters. When the Security Council has kept silent for eight years on the violation of the Algiers Peace Agreement — signed after a costly war that has claimed over 100,000 lives and in which the Security Council is a guarantor in accordance with article 14 of the Agreement — how can one explain resolution 1907 (2009), which purports to slam sanctions on one party on account of a presumed border dispute? In any case, the issues must be treated in their own right and addressed on the basis of compelling evidence.

4. Flawed processes

The United States had meticulously worked out a sinister "game plan" that would incrementally create a momentum for imposing sanctions against Eritrea. To this end, it first ensured that the accusations against Eritrea are first adopted in the Intergovernmental Authority on Development, a regional institution that has unfortunately turned into a captive organ of United States strategy in the Horn. Thus, partisan condemnations of Eritrea and a general call for sanctions were secured within the Intergovernmental Authority on Development, mostly under the "Chairmanship" of Ethiopia. These resolutions were later discussed in the African

Peace and Security Council with intensive United States lobbying. The African Union summit held in Sirte was then made to adopt the resolution through a similar pattern. Strong voices that requested independent verification were quelled and the resolution was adopted at the last minute when most of the Heads of State and Government had departed. In the subsequent extraordinary summit held in Libya in August 2009, many member States raised fundamental reservations on the approach to the Somali crisis and recommended solutions that contradict the June resolution both in tone and content. Security Council resolution 1907 (2009) cites these events in a selective and distorted manner. What must be clear is that the resolution was cosponsored by Uganda in its individual capacity as a non-permanent member of the Security Council. It was not tabled, but on the contrary, was strongly opposed by Libya, which is also a non-permanent member of the Security Council and the current Chair of the African Union and which had consistently objected to the African Union resolutions at all the different stages. More importantly, the Security Council's function is not to simply endorse resolutions adopted by a regional organization when invoking Chapter VII of the Charter of the United Nations to impose sanctions against a Member State, but to do so independently and only on the basis of incontrovertible facts and law. Thus, in spite of the seemingly subtle and elaborate processes, the scheme remains both flawed and legally untenable. The overt pressures that the United States Administration employed in soliciting backing from several Security Council member States who had raised serious misgivings on the whole exercise and particularly requested for facts to corroborate the allegations further amplifies the fact that this resolution is not based on law and justice. The fact that Eritrea was denied the platform to defend itself and to clarify the truth is another illustration of the flaws of the process and the groundless accusation and vigorous smear campaigns conducted by the United States. Security Council resolution 1907 (2009) is thus not based on fact and law. It was not adopted by Security Council members acting in good faith to preserve regional peace and security. The resolution was drafted and pushed by the United States to serve its own perceived interests in the Horn of Africa region and to punish Eritrea simply because it has not accepted its biased policies.

As such, Eritrea requests that: (i) all the groundless allegations be examined by an independent body; and (ii) it is accorded the opportunity and right to defend itself against the false accusations peddled by the United States to advance ulterior objectives.

My Government kindly urges the Security Council to redress the injustices perpetrated against Eritrea and to seek a reversal and repeal of the lopsided resolution, which is not based on fact and international law, which will only aggravate regional instability and insecurity and which can only undermine the moral authority of the international body.

(*Signed*) Isaias **Afwerki**